

remains \$1,000, no part of which is attributable to H. To the \$0 taxable income attributable to H for 1956 there is added \$800, the excess of the \$1,000 taxable income for such year attributable to W over her \$200 net operating loss sustained in 1957, a taxable year beginning on the same date as the taxable year of H in which he sustained the \$4,000 net operating loss from which the taxable income is subtracted.

(iv) W has no net operating loss carryover from 1957 to 1958 since her net operating loss of \$200 for 1957 does not exceed the \$1,000 taxable income for 1956 attributable to her.

*Example 4.* (i) Assume the same facts as in *Example 2*, except that W changes her accounting period in 1957 to a fiscal year ending on January 31, and has neither income nor losses for the taxable year January 1, 1957, to January 31, 1957, or for the fiscal year February 1, 1957, to January 31, 1958, but has a net operating loss of \$200 for the fiscal year February 1, 1958, to January 31, 1959.

(ii) The net operating loss carryover of H from 1957 to 1958 is \$3,000, that is, his net operating loss of \$4,000 for 1957 reduced by the sum of his \$0 taxable income for 1955 (a year in which he sustained a loss) and his \$1,000 taxable income for 1956. Such \$1,000 is computed as follows:

(iii) The combined taxable income for 1956, computed with the net operating loss deduction in the manner described in *Example 2*, remains \$1,000, no part of which is attributable to H. To the \$0 taxable income attributable to H for 1956 there is added the \$1,000 taxable income attributable to W for such year. The taxable income attributable to W is not reduced by any amount since she does not have a net operating loss for her taxable year beginning on January 1, 1957, the date of the beginning of the taxable year of H in which he sustained the \$4,000 net operating loss from which his taxable income is subtracted.

(iv) The net operating loss carryover of W from the fiscal year beginning February 1, 1958, to her next fiscal year is \$200, that is, her net operating loss of \$200 for the fiscal year beginning February 1, 1958, reduced by the sum of her \$0 taxable income for 1956, her \$0 taxable income for the taxable year January 1, 1957, to January 31, 1957 (a year in which she had neither income nor loss), and her \$0 taxable income for the fiscal year February 1, 1957, to January 31, 1958 (also a year in which she had neither income nor loss). The \$0 taxable income for 1956 is computed as follows:

(v) The combined taxable income of \$9,500 for 1956 is reduced to \$0 amount by the net operating loss deduction for such year of \$12,500. This net operating loss deduction is computed by taking into account the net operating loss of H for 1957 since it was sustained in a taxable year beginning before February 1, 1958, the date of the beginning of

the taxable year of W in which she sustained the \$200 net operating loss from which her taxable income is subtracted. This \$12,500 is composed of H's carryovers of \$5,000 from 1954 and \$2,500 from 1955 and of his carryback of \$4,000 from 1957, plus W's carryover of \$1,000 from 1954 (the excess of W's \$3,000 loss for 1954 over her \$2,000 income for 1955). Since there is no combined taxable income for 1956, there is no taxable income attributable to W for such year.

[T.D. 6500, 25 FR 11402, Nov. 26, 1960, as amended by T.D. 8107, 51 FR 43346, Dec. 2, 1986]

#### § 1.172-8 Net operating loss carryovers for regulated transportation corporations.

(a) *In general.* A net operating loss sustained in a taxable year ending before January 1, 1976, shall be a carryover to the 7 succeeding taxable years if the taxpayer is a regulated transportation corporation (as defined in paragraph (b) of this section) for the loss year and for the 6th and 7th succeeding taxable years. If, however, the taxpayer is a regulated transportation corporation for the loss year and for the 6th succeeding taxable year, but not for the 7th succeeding taxable year, then the loss shall be a carryover to the 6 succeeding taxable years. If the taxpayer is not a regulated transportation corporation for the 6th succeeding taxable year then this section shall not apply. A net operating loss sustained in a taxable year ending after December 31, 1975, shall be a carryover to the 15 succeeding taxable years.

(b) *Regulated transportation corporations.* A corporation is a *regulated transportation corporation* for a taxable year if it is included within one or more of the following categories:

(1) Eighty percent or more of the corporation's gross income (computed without regard to dividends and capital gains and losses) for such taxable year is income from transportation sources described in paragraph (c) of this section.

(2) The corporation is a railroad corporation, subject to Part I of the Interstate Commerce Act, which is either a lessor railroad corporation described in section 7701(a)(33)(G) or a common parent railroad corporation described in section 7701(a)(33)(H).

(3) The corporation is a member of a regulated transportation system for the taxable year. For purposes of this section, a member of a regulated transportation system for a taxable year means a member of an affiliated group of corporations making a consolidated return for such year, if 80 percent or more of the sum of the gross incomes of the members of the affiliated group for such year (computed without regard to dividends, capital gains and losses, or eliminations for intercompany transactions) is derived from transportation sources described in paragraph (c) of this section. For purposes of this subparagraph, income derived by a corporation described in subparagraph (2) of this paragraph from leases described in section 7701(a)(33)(G) shall be considered as income from transportation sources described in paragraph (c) of this section.

(c) *Transportation sources.* For purposes of this section, income from “transportation sources” means income received directly in consideration for transportation services, and income from the furnishing or sale of essential facilities, products, and other services which are directly necessary and incidental to the furnishing of transportation services. For purposes of the preceding sentence, the term *transportation services* means:

(1) Transportation by railroad as a common carrier subject to the jurisdiction of the Interstate Commerce Commission;

(2)(i) Transportation, which is not included in subparagraph (1) of this paragraph:

(a) On an intrastate, suburban, municipal, or interurban electric railroad,

(b) On an intrastate, municipal, or suburban trackless trolley system,

(c) On a municipal or suburban bus system, or

(d) By motor vehicle not otherwise included in this subparagraph, if the rates for the furnishing or sale of such transportation are established or approved by a regulatory body described in section 7701(a)(33)(A);

(ii) In the case of a corporation which establishes to the satisfaction of the district director that:

(a) Its revenue from regulated rates from transportation services described

in subdivision (i) of this subparagraph and its revenue derived from unregulated rates are derived from its operation of a single interconnected and coordinated system or from the operation of more than one such system, and

(b) The unregulated rates have been and are substantially as favorable to users and consumers as are the regulated rates, transportation, which is not included in subparagraph (1) of this paragraph, from which such revenue from unregulated rates is derived.

(3) Transportation by air as a common carrier subject to the jurisdiction of the Civil Aeronautics Board; and

(4) Transportation by water by common carrier subject to the jurisdiction of either the Interstate Commerce Commission under Part III of the Interstate Commerce Act (54 Stat. 929), or the Federal Maritime Board under the Intercoastal Shipping Act, 1933 (52 Stat. 965).

(d) *Corporate acquisitions.* This section shall apply to a carryover of a net operating loss sustained by a regulated transportation corporation (as defined in paragraph (b) of this section) to which an acquiring corporation succeeds under section 381(a) only if the acquiring corporation is a regulated transportation corporation (as defined in paragraph (b) of this section):

(1) For the sixth succeeding taxable year in the case of a carryover to the sixth succeeding taxable year, and

(2) For the sixth and seventh succeeding taxable years in the case of a carryover to the seventh succeeding taxable year.

[T.D. 6862, 30 FR 14430, Nov. 18, 1965, as amended by T.D. 8107, 51 FR 43346, Dec. 2, 1986]

**§ 1.172-9 Election with respect to portion of net operating loss attributable to foreign expropriation loss.**

(a) *In general.* If a taxpayer has a net operating loss for a taxable year ending after December 31, 1958, and if the foreign expropriation loss for such year (as defined in paragraph (b)(1) of this section) equals or exceeds 50 percent of the net operating loss for such year, then the taxpayer may elect (at the time and in the manner provided in paragraph (c) (1) or (2) of this section, whichever is applicable) to have the